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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,423	09/17/1999	JEFFREY H. STARR	020431.0450	8715

7590 11/10/2003

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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary	Application No. 09/397,423	Applicant(s) STARR ET AL.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 4/2/03, PROSECUTION IS HEREBY REOPENED. A rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 and 16-47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in

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the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

On page 5, lines 11-13 of applicant's specification, it is stated that "Enterprise model 24, planning engine model 26, and presentation interface 28 represent software components that are each responsible for a separate set of well defined tasks. However, the software components are neither stated nor described in the specification. On lines 16-17, it is further stated that "system 10 contemplates any suitable combination of hardware, software, or both hardware and software that implements the described functionality". However, the specification fails to provide any details of a flowchart, program or subroutines to arrive at the various exemplary figures of the drawing. The specification merely provides conclusionary statement of what the invention may do or will do, but no specific details enabling one of ordinary skill in the art to make and use the invention are provided. The specification lack any detailed teaching on how a skilled artisan would use the invention to arrive at figures 2-9 so as to apply the intended teachings for managing a supply chain in a desired manufacturing environment. Pages 5 to further indicates that "model 24 calculates expenses by representing costs according to the times at which the costs occur. This method of calculating expenses (What method is applicant referring to") more accurately reflects the time value of money than an accrual method (where is that explained in the specification ?) that does not recognize costs until a sale occurs. Model 24 includes raw material costs, operation costs, inventory carrying costs, handling costs, or any other suitable costs that accompany supply chain activities in any suitable combination". How are these variables applied to come up with figures 2-8 are not detailed in the specification. On page 6, lines 824, various variables to be used in an optimization criteria [not described] are indicated.

The manner in which to use these variables is not explained or detailed in the specification. Furthermore, the specification is replete with the word “may” and that “The optimization criteria may...” and that the “engine 26 may maximize profit in terms other than net present value” without any showing or explanations of such is done.

It is further noted that each of figures 2-8 is an exemplary denotation of a cashflow report, a profit margin report, a resource allocation report, a product report, a product mix report, a production report and a cashflow report. The manner to make and use these exemplary reports are not detailed in the specification. The specification merely provides explanation on what the various buttons, graphs, charts or pies signify. The manner to construct such figures is nowhere found in the specification. Thus, applicants have failed to provide an enabling disclosure and a provision on how to make and use the invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 25, 26 and 28-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moolman et al “A Capital budgeting model based on the project portfolio approach: Avoiding cash flows per project”, Engineering Economist, V42n2, PP: 11-135, Winter 1997, Dialog file 15, Accession No. 01407260.

As per claims 1 and 25, Moolman et al disclose a capital budgeting model to be used in supplying planning information associated with a supply chain. The system comprises accessing a model that involves a plurality of products and resources and to use the model to generate planning information for the supply chain according to one or more specified constraints and one or more optimization criteria. See pages 3 and 7; a cashflow report providing a net present value for one or more products in the supply chain, each net present value reflecting revenues and expenses associated with a corresponding product according to the time periods in which the revenues and expenses occur. Note pages 3-7 of Moolman et al. The only difference between the claimed invention and the teachings of Moolman et al is that a planning engine and a presentation interface to generate a first visual display for displaying a cashflow report are not indicated in Moolman et al. However, such would have been obvious to one of ordinary skill in the art by having a skilled programmer programming the teachings of Moolman et al using a computer system or a network of computers in order to facilitate the review and presentation of the cashflow report.

As per claims 8 and 32, Moolman disclose a capital budgeting model to be used in supplying planning information associated with a supply chain. The system comprises accessing a model that involves a plurality of products and resources and to use the model to generate planning information for the supply chain according to one or more specified constraints and one or more optimization criteria. See pages 3 and 7; a profit margin report that indicates, for one or more products associated with a specific resource, a profit margin for each time interval the resource is in use. Note pages 3-7 of Moolman et al. The only difference between the claimed invention and the teachings of Moolman et al is that a planning engine and a presentation

interface to generate a first visual display for displaying a profit margin report are not indicated in Moolman et al. However, such would have been obvious to one of ordinary skill in the art by having a skilled programmer programming the teachings of Moolman et al using a computer system or a network of computers in order to facilitate the review and presentation of the profit margin report.

As per claims 5-7 and 11-13, 26, 29-31, 35-37 Moolman et al discusses one or more products' share of an allocated mix of production, a percentage of time during each resource is in use, and a percentage of each raw material that is used which are given in a table thus constituting a report. Applicant is directed to pages 2-7 of Moolman et al.

As per claims 2 and 4, 9-10, 28, 33, 34, Moolman et al discloses taking into consideration a list products P1 to P4 (pages 3-4), presenting a net present value for each of the listed products (pages 1 and 7) and a net cashflow associated with each listed product during a time period (pages 4 and 7). Moolman et al further teaches a percentage of forecasted demand satisfied by allocated production (pages 3 and 5), a profit margin per unit for each of the product (page 5) and for each product, a number of units produced for each time interval a specified resource is in use (pages 6-8). The only difference between claims 2, 4 and the teachings of Moolman et al is that a two dimensional display and a first, second or third bar graph are not explicitly stated. The Examiner asserts that such a manner of presenting data to a user is one of a plurality of choices available to one of ordinary skill in the art. Presenting these information using a bar graph or a two dimensional display in the system of Moolman et al would have been obvious to one of ordinary skill in the art in order to visually present information to a user wherein the user may instantly discern the presented information at a glance.

Allowable Subject Matter

4. Claims 3 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14, 16-24 and 38-47 are allowable over the art of record.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP
November 3, 2003


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3628